

**Amendment and Response**

Page 11 of 15

Serial No.: 10/087,617

Confirmation No.: 7945

Filed: February 27, 2002

For: METHODS FOR GROWTH STIMULATION

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**Remarks**

The Office Action mailed June 12, 2003 has been received and reviewed. Claim 1 having been amended, claims 7, 9-10, 21, 34, and 48 having been canceled, and claims 52-56 having been added, the pending claims are claims 1-6, 8, 11-20, 22-33, 35-47, and 49-56. Reconsideration and withdrawal of the rejections are respectfully requested.

The Examiner is thanked for acknowledging that claims 11, 38, and 51 are allowed. These allowed claims recite "wherein the monochromatic light has an intensity of at least about 0.08 watts/m<sup>2</sup> to no greater than about 0.2 watts/m<sup>2</sup>." Applicants note that claims 7, 19, 32, and 46 also recite the same phrase, and are objected to but would be allowable if rewritten in independent form. Thus, applicants respectfully submit that independent claim 24, which recites "wherein the monochromatic light has an intensity of at least about 0.08 watts/m<sup>2</sup> to no greater than about 0.2 watts/m<sup>2</sup>" should also be considered as allowed.

Claims 4, 7, 16, 19, 29, 32, 43, and 46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Claim 1 is amended to recite the subject matter of claim 7. New claim 52 is supported by originally filed claims 1 and 4.

New claims 53-56 are supported by originally filed claims 5-8, respectively.

**Rejection under 35 U.S.C. §102(b)**

Claims 1-3, 5, 6, 8-10, 12-15, 17, 18, 20-28, 30, 31, 33-37, 39-42, 44, 45, and 47-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Schonberg (U.S. Patent No. 4,625,728). This rejection is respectfully traversed.

Claim 1 has been amended to recite the subject matter of claim 7, thereby rendering the rejection of claim 1 moot.

Much of Schonberg is directed to exposing poultry and embryos to different energy levels. For instance, Schonberg discloses that exposure of poultry to near red light will "modify body weight, promote sexual development, improve efficiency of food consumption, reduce

*Amendment and Response*

Page 12 of 15

Serial No.: 10/087,617

Confirmation No.: 7945

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mortality caused by stress and cannibalism, and increase egg productivity." Schonberg, col. 2, lines 37-41. Schonberg also states that

"a light source having an illumination spectrum in the green band is used in management of embryo growth by irradiation for a controlled period of time, until an optimum embryo weight is attained, either at or before term. Alternatively, a light source providing near red radiation is employed for a controlled period of time, in order to accelerate the embryo's maturation which, in the case of poultry, results in earlier hatching. Both methods will reduce the time needed for either embryonal growth or embryonic maturation, thus resulting in considerable savings in time and money."

Schonberg, col. 3, lines 9-20 (emphasis added).

*Independent claims 12, 22, 23, and 24*

Independent claim 12 recites a method for increasing a bird's weight, the method comprising exposing an egg to a monochromatic light for a photoperiod, and hatching the egg, wherein the bird that hatches from the egg has a greater weight at about 28 days after hatching compared to a bird that hatches from an egg not exposed to the monochromatic light.

Independent claims 22, 23, and 24 recite, inter alia, a method for increasing a bird's weight, the method comprising exposing an egg to a monochromatic light for a photoperiod comprising a light period and a dark period, and hatching the egg, wherein the bird that hatches from the egg has a greater weight at about 28 days after hatching compared to a bird that hatches from an egg not exposed to the monochromatic light. Furthermore, independent claim 24 recites "wherein the monochromatic light has an intensity of at least about 0.08 watts/m<sup>2</sup> to no greater than about 0.2 watts/m<sup>2</sup>."

Schonberg does not teach a method for increasing a bird's weight comprising exposing an egg to a monochromatic light for a photoperiod, and hatching the egg, wherein the bird that hatches from the egg has a greater weight at about 28 days after hatching compared to a bird that

*Amendment and Response*

Page 13 of 15

Serial No.: 10/087,617

Confirmation No.: 7945

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hatches from an egg not exposed to the monochromatic light. Likewise, Schonberg does not teach using a monochromatic light having an intensity of at least about 0.08 watts/m<sup>2</sup> to no greater than about 0.2 watts/m<sup>2</sup> (claim 24). Thus, Schonberg does not disclose each and every element as set forth in claims 12 and 22-24. Accordingly, Schonberg does not anticipate independent claims 12 and 22-24.

Reconsideration and withdrawal of the rejection of claims 12 and 22-24 is respectfully requested.

*Independent claims 25, 36 and 37*

Independent claim 25 recites a method for increasing muscle weight in a bird, the method comprising exposing an egg to a monochromatic light for a photoperiod, and hatching the egg, wherein the bird that hatches from the egg has a greater muscle weight at about 28 days after hatching compared to a bird that hatches from an egg not exposed to the monochromatic light. Independent claims 36 and 37 recite, inter alia, a method for increasing muscle weight in a bird, the method comprising exposing an egg to a monochromatic light for a photoperiod comprising a light period and a dark period, and hatching the egg, wherein the bird that hatches from the egg has a greater muscle weight at about 28 days after hatching compared to a bird that hatches from an egg not exposed to the monochromatic light.

Schonberg does not teach a method for increasing muscle weight in a bird comprising exposing an egg to a monochromatic light for a photoperiod, and hatching the egg, wherein the bird that hatches from the egg has a greater weight at about 28 days after hatching compared to a bird that hatches from an egg not exposed to the monochromatic light. Thus, Schonberg does not disclose each and every element as set forth in claims 25, 36, and 37. Accordingly, Schonberg does not anticipate independent claims 25, 36, and 37.

The Examiner is requested to reconsider and withdraw the rejection of claims 25, 36, and 37.

***Amendment and Response****Page 14 of 15**Serial No.: 10/087,617**Confirmation No.: 7945**Filed: February 27, 2002**For: METHODS FOR GROWTH STIMULATION*

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***Independent claims 39, 49, and 50***

Independent claim 39 recites a method for decreasing a mortality rate of a bird, the method comprising exposing an egg to a monochromatic light for a photoperiod, and hatching the egg, wherein the mortality rate of a bird that hatches from the egg has a lower mortality rate compared to a bird that hatches from an egg not exposed to the monochromatic light.

Independent claims 49 and 50 recite, inter alia, a method for decreasing a mortality rate of a bird, the method comprising exposing an egg to a monochromatic light for a photoperiod comprising a light period and a dark period, and hatching the egg, wherein the mortality rate of a bird that hatches from the egg has a lower mortality rate compared to a bird that hatches from an egg not exposed to the monochromatic light.

Schonberg does not teach a method for increasing muscle weight in a bird comprising exposing an egg to a monochromatic light for a photoperiod, and hatching the egg, wherein the bird that hatches from the egg has a greater weight at about 28 days after hatching compared to a bird that hatches from an egg not exposed to the monochromatic light. Thus, Schonberg does not disclose each and every element as set forth in claims 39, 49, and 50. Accordingly, Schonberg does not anticipate independent claims 39, 49, and 50.

Reconsideration and withdrawal of the rejection of claims 39, 49, and 50 is respectfully requested.

**The 35 U.S.C. §112, First Paragraph, Rejection**

Claims 21, 34, and 48 are rejected under 35 U.S.C. 112, first paragraph, for lack of enablement. Specifically, the Action asserts that the specification does not reasonably provide enablement for insuring that the hatched bird is a hen. This rejection is respectfully traversed. In the interests of furthering prosecution, claims 21, 34, and 48 are canceled.

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Page 15 of 15

**Amendment and Response**

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**Summary**

It is respectfully submitted that the pending claims 1-6, 8, 11-20, 22-33, 35-47, and 49-56 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for

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**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12 day of SEPTEMBER, 2003, at 11:41 am (Central Time).

By:

Name:

SAM HER